

**SUMMARY of the Decision of the Inquiries, Complaints and Reports Committee
(the Committee)**
(Information is available about the complaints process [here](#) and about the Committee [here](#))

**Dr. Emad Mikhail Guirguis (CPSO #55334)
(the Respondent)**

INTRODUCTION

The Respondent (General Surgeon) attempted to perform bariatric revision gastric band surgery on the Complainant. The Respondent did not complete the surgery because he encountered extensive scar tissue from previous surgeries the Complainant had undergone. The Complainant contacted the College of Physicians and Surgeons of Ontario (the College) to express concerns about the Respondent's care and administrative conduct.

COMPLAINANT'S CONCERNS

The Complainant is concerned that the Respondent failed to adequately manage her care; for example, the Respondent:

- **perforated her bowel during the surgery, which resulted in ongoing complications;**
- **did not complete her gastric band surgery, advising that he was unable to perform the procedure due to scar tissue, and did not communicate or follow up with her after the surgery or provide a refund of her fee.**

COMMITTEE'S DECISION

A Surgical Panel of the Committee considered this matter at its meeting of April 17, 2020. The Committee required the Respondent to attend at the College to be cautioned in person with respect to; eliciting information relevant to the patient's surgical history; and pursuing a refund of the patient's payment for uninsured services proactively and in a timely and diligent fashion. The Committee also negotiated an undertaking with the Respondent focused on the Respondent's professionalism, specifically around billing practices for uninsured services and professional behaviours and relationships in all aspects of practice, including financial dealings with patients.

COMMITTEE'S ANALYSIS

As part of this investigation, the Committee retained an independent assessor (the Assessor) who specializes in bariatric surgery.

Clinical concerns

The Assessor initially questioned how the Respondent could have offered certain surgical alternatives to the Complainant, given previous bariatric surgeries performed on the Complainant. In further reports, following consideration of an opinion which the Respondent's counsel sought, the Assessor acknowledged it was difficult to know for certain what the Respondent knew about certain previous surgery the Complainant had undergone.

The Committee concurred this was difficult to know but was of the view that the Respondent's pre-operative assessment was insufficient, further noting that this had been an issue in several previous Committee decisions respecting the Complainant. The Committee was of the opinion that the Respondent had not been remediated through former dispositions in some of those matters. The Committee expressed its concern that this was a persistent failure of the Respondent's practice and decided to caution the Respondent on this subject, as set out above.

Professionalism concerns

The Respondent did not refund the Complainant the fee paid for the uninsured service, considering that he did not complete the procedure. This was despite knowing the Complainant was seeking such a refund at a minimum from the time he was aware of this complaint and despite indicating to the College that he would correspond with her directly with respect to the refund. The Committee decided to caution the Respondent and also accept an undertaking from him on this issue, as set out above.

The Committee took no further action on other aspects of the complaint.